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TODD FRIEDMAN

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

TODD FRIEDMAN, Individually and) Case No.
On Behalf of All Others Similarly)
Situating,)
Plaintiff,)

**CLASS ACTION COMPLAINT
FOR DAMAGES AND DEMAND
FOR JURY TRIAL**

vs.

MED DIRECT CAPITAL, LLC,
Defendant.

NATURE OF THE CASE

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of MED DIRECT CAPITAL, LLC

1 (“Defendant”), in negligently, knowingly, and/or willfully contacting Plaintiff and
2 on Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection
3 Act, 47. U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

4 **JURISDICTION & VENUE**

5 2. Jurisdiction is proper as Plaintiff seeks redress under a federal statute,
6 thus this Court has jurisdiction as this matter involves questions of federal law.

7 3. Venue is proper in the United States District Court for the Central
8 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)
9 because Defendant does business within the state of California and the Central
10 District of California and Plaintiff resides within this district.

11 **PARTIES**

12 4. Plaintiff, TODD FRIEDMAN (“Plaintiff”), is a natural person
13 residing in Los Angeles County, California and is a “person” as defined by 47
14 U.S.C. § 153 (10).

15 5. Defendant, MED DIRECT CAPITAL, LLC (“Defendant”), is a
16 limited liability company engaged in the business of lending business capital loans
17 to business owners nationwide with its state of incorporation and its corporate
18 headquarters in the State of Florida and is a “person” as defined by 47 U.S.C. § 153
19 (10).

20 **FACTUAL ALLEGATIONS**

21 6. Beginning in or around March of 2015, Defendant began placing
22 autodialed telephone call to Plaintiff’s cellular telephone number ending in 9293,
23 which Plaintiff has possessed exclusively since approximately 2011.

24 7. To date, Defendant has placed at least one (1) such autodialed
25 solicitation call to Plaintiff’s cellular telephone on or about March 2, 2015.

26 8. Defendant placed its calls from telephone number (561) 337-2286.

27 9. The purpose of Defendant’s call was to attempt to solicit Plaintiff into
28 applying for a business capital loan.

1 10. Defendant used an “automatic telephone dialing system”, as defined
2 by 47 U.S.C. § 227(a)(1) to place its call to Plaintiff seeking to solicit Plaintiff’s
3 business.

4 11. Defendant’s call constituted a call that was not for emergency
5 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

6 12. Defendant’s call was placed to a telephone number assigned to a
7 cellular telephone service for which Plaintiff incurs a charge for incoming calls
8 pursuant to 47 U.S.C. § 227(b)(1).

9 13. Plaintiff has no business relationship with Defendant whatsoever and
10 never provided Defendant with his cellular telephone number for any purpose.
11 Accordingly, Defendant did not have Plaintiff’s “prior express consent” to receive
12 calls using an automatic telephone dialing system on his cellular telephone pursuant
13 to 47 U.S.C. § 227(b)(1)(A).

14 **CLASS ALLEGATIONS**

15 14. Plaintiff brings this action on behalf of himself and all others similarly
16 situated, as a member of the proposed class (hereafter “The Class”) defined as
17 follows:

18 All persons within the United States who received any
19 telephone call from Defendant or Defendant’s agent/s
20 and/or employee/s to said person’s cellular telephone
21 made through the use of any automatic telephone dialing
22 system within the four years prior to the filing of this
23 Complaint

24 15. Plaintiff represents, and is a member of, The Class, consisting of All
25 persons within the United States who received any telephone call from Defendant
26 or Defendant’s agent/s and/or employee/s to said person’s cellular telephone made
27 through the use of any automatic telephone dialing system within the four years
28 prior to the filing of this Complaint.

1 16. Defendant, its employees and agents are excluded from The Class.
2 Plaintiff does not know the number of members in The Class, but believes the Class
3 members number in the hundreds, if not more. Thus, this matter should be certified
4 as a Class Action to assist in the expeditious litigation of the matter.

5 17. The Class is so numerous that the individual joinder of all of its
6 members is impractical. While the exact number and identities of The Class
7 members are unknown to Plaintiff at this time and can only be ascertained through
8 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
9 The Class includes thousands of members. Plaintiff alleges that The Class
10 members may be ascertained by the records maintained by Defendant.

11 18. Plaintiff and members of The Class were harmed by the acts of
12 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
13 and Class members via their cellular telephones thereby causing Plaintiff and Class
14 members to incur certain charges or reduced telephone time for which Plaintiff and
15 Class members had previously paid by having to retrieve or administer messages
16 left by Defendant during those illegal calls, and invading the privacy of said
17 Plaintiff and Class members.

18 19. Common questions of fact and law exist as to all members of The
19 Class which predominate over any questions affecting only individual members of
20 The Class. These common legal and factual questions, which do not vary between
21 Class members, and which may be determined without reference to the individual
22 circumstances of any Class members, include, but are not limited to, the following:

- 23 a. Whether, within the four years prior to the filing of this
24 Complaint, Defendant made any telephone call (other than a
25 call made for emergency purposes or made with the prior
26 express consent of the called party) to a Class member using
27 any automatic telephone dialing system to any telephone
28 number assigned to a cellular telephone service;

1 b. Whether Plaintiff and the Class members were damaged
2 thereby, and the extent of damages for such violation; and

3 c. Whether Defendant should be enjoined from engaging in such
4 conduct in the future.

5 20. As a person that received a call from Defendant using an automatic
6 telephone dialing system, without Plaintiff's prior express consent, Plaintiff is
7 asserting claims that are typical of The Class.

8 21. Plaintiff will fairly and adequately protect the interests of the members
9 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
10 class actions.

11 22. A class action is superior to other available methods of fair and
12 efficient adjudication of this controversy, since individual litigation of the claims
13 of all Class members is impracticable. Even if every Class member could afford
14 individual litigation, the court system could not. It would be unduly burdensome
15 to the courts in which individual litigation of numerous issues would proceed.
16 Individualized litigation would also present the potential for varying, inconsistent,
17 or contradictory judgments and would magnify the delay and expense to all parties
18 and to the court system resulting from multiple trials of the same complex factual
19 issues. By contrast, the conduct of this action as a class action presents fewer
20 management difficulties, conserves the resources of the parties and of the court
21 system, and protects the rights of each Class member.

22 23. The prosecution of separate actions by individual Class members
23 would create a risk of adjudications with respect to them that would, as a practical
24 matter, be dispositive of the interests of the other Class members not parties to such
25 adjudications or that would substantially impair or impede the ability of such non-
26 party Class members to protect their interests.

27 24. Defendant has acted or refused to act in respects generally applicable
28 to The Class, thereby making appropriate final and injunctive relief with regard to

1 the members of the California Class as a whole.

2 **FIRST CAUSE OF ACTION**

3 **Negligent Violations of the Telephone Consumer Protection Act**

4 **47 U.S.C. §227 et seq.**

5 25. Plaintiff repeats and incorporates by reference into this cause of
6 action the allegations set forth above at Paragraphs 1-25.

7 26. The foregoing acts and omissions of Defendant constitute numerous
8 and multiple negligent violations of the TCPA, including but not limited to each
9 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

10 27. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
11 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
12 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

13 28. Plaintiff and the Class members are also entitled to and seek
14 injunctive relief prohibiting such conduct in the future.

15 **SECOND CAUSE OF ACTION**

16 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
17 **Act**

18 **47 U.S.C. §227 et seq.**

19 29. Plaintiff repeats and incorporates by reference into this cause of
20 action the allegations set forth above at Paragraphs 1-29.

21 30. The foregoing acts and omissions of Defendant constitute numerous
22 and multiple knowing and/or willful violations of the TCPA, including but not
23 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
24 *seq.*

25 31. As a result of Defendant's knowing and/or willful violations of *47*
26 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
27 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
28 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

32. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- Injunctive relief.
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Injunctive relief.
- Any and all other relief that the Court deems just and proper.

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